

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

IN RE:

CHARLES PEMBROKE

Case No. 24-43816-TJT

Chapter 13

Hon. THOMAS J. TUCKER

Debtor(s).

TAMARA A. WHITE (P57276)

Attorney for Creditor

bankruptcy@holzmanlaw.com

28366 Franklin Road

Southfield, MI 48034

248/352-4340

EDWARD J. GUDEMAN (P14454)

Attorney for Debtor

1026 W. Eleven Mile Road

Royal Oak MI 48067

248/546-2800

MOTION TO TERMINATE AUTOMATIC STAY
AND WAIVE THE PROVISIONS OF F.R.Bankr.P. 4001(a)(3)

NOW COMES COMMUNITY CHOICE CREDIT UNION, by and through its attorneys, Holzman Law, PLLC, and for its Motion To Terminate Automatic Stay and Waive the Provisions of FRBP 4001, says as follows:

1. On or about April 17, 2024, the Debtor filed a Voluntary Petition for Relief pursuant to 11 U.S.C. Chapter 13.
2. Creditor, Community Choice Credit Union, has a perfected security interest in a 2020 Chevrolet Corvette VIN: 1G1Y62D46L5103160 ("Property"), which secures a loan balance of approximately \$93,954.55. Please see Exhibit B, Proof of Lien and Exhibit C, Loan Balance.
3. Creditor financed the purchase of the Property in the amount of \$82,499.00, which Debtor was to repay in monthly installments of \$2,262.43 with 8.49% interest. Please see Exhibit D.
4. Thereafter, Creditor timely perfected its security interest in the Property. Please see Exhibit B.

5. Other than the Debtor and this Creditor, no other party has a legal or equitable interest in the Property.

6. Debtor has materially defaulted with the installment payments and the loan is contractually due for June 2023 and all subsequent installment payments. Please see Exhibit C.

7. According to Debtor's Scheduled D, the Property has a fair market value of \$65,000.00. Please see ECF No. 15, p. 14, which is incorporated herein for reference.

8. Pursuant to the proposed Ch. 13 Plan, Debtor is surrendering the Property. Please see ECF No. 18, which is incorporated herein for reference.

9. Section 11 U.S.C. §362(d)(1) and (2) states in pertinent part that:

(d)(1) - on the request of a party in interest and after notice and a hearing, the court shall grant relief from the stay for cause, including lack of adequate protection of an interest in the property, or

(d)(2) - with respect to a stay of an act against property, if:

(A) the debtor does not have equity in the property; and

(B) such property is not necessary for an effective reorganization.

11 U.S.C. §362(d)(1) and (2).

10. Inasmuch as the Debtor is surrendering the Property, it is not needed for an effective reorganization and the Plan does not adequately protect the Creditor's secured interest in the form of payments.

11. Further, upon information and belief, the Property is not insured, contributing to Creditor's lack of adequate protection.

12. Based on the foregoing, the Creditor is not adequately protected, just cause exists to terminate the automatic stay under 11 U.S.C. §362(d)(1) and (2).

13. Because Debtor does not need the Property for an effective reorganization and because of the material default with contract payments and insurance, cause exists to waive the provisions of FRBP 4001(a)(3) so that Creditor may mitigate its damages and prevent further loss.

14. Creditor sought concurrence in this Motion on 6/5/2024, but concurrence was not obtained.

15. A proposed Order granting the relief requested in this Motion is attached hereto as an Exhibit.

WHEREFORE, COMMUNITY CHOICE CREDIT UNION requests this Court to enter an order terminating the automatic stay for the purpose of allowing the secured creditor to take possession of and to foreclose its security interest in a Chevrolet Corvette VIN: 1G1Y62D46L5103160, and to further waive the provisions of FRBP 4001(a)(3).

Dated: June 13, 2024

HOLZMAN LAW, PLLC

By: /S/ TAMARA A. WHITE (P57276)
Attorney for Creditor
bankruptcy@holzmanlaw.com
28366 Franklin Road
Southfield, MI 48034
248/352-4340

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

IN RE:

Case No. 24-43816-TJT
Chapter 13
Hon. THOMAS J. TUCKER

CHARLES PEMBROKE
Debtor(s).

TAMARA A. WHITE (P57276)
Attorney for Creditor
bankruptcy@holzmanlaw.com
28366 Franklin Road
Southfield, MI 48034
248/352-4340

EDWARD J. GUDEMAN (P14454)
Attorney for Debtor
1026 W. Eleven Mile Road
Royal Oak MI 48067
248/546-2800

ORDER TERMINATING AUTOMATIC STAY
AND WAIVING THE PROVISIONS OF F.R.Bankr.P. 4001(a)(3)

THIS MATTER came before the Court upon the Motion for Relief from the Automatic Stay and Waive the Provisions of F.R.Bankr.P. 4001(a)(3) filed by COMMUNITY CHOICE CREDIT UNION with respect to Creditor's duly perfected security interest in a 2020 Chevrolet Corvette VIN: 1G1Y62D46L5103160, motor vehicle. The interested parties were served the Motion with the deadline to object thereto. No objections have been timely filed and a Certificate of No Response has been filed with the Court. The Court has reviewed the Motion and finds cause to enter this Order.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Creditor's motion is granted.

2. The Automatic Stay is terminated for the purpose of permitting Community Choice Credit Union to take possession of and foreclose its security interest in a 2020 Chevrolet Corvette VIN: 1G1Y62D46L5103160, motor vehicle. Debtor shall make the Property and its keys readily accessible and free from obstruction at Debtor's residence as it appears on his bankruptcy petition.
3. If any excess funds result from the sale of said property, Creditor shall remit any surplus to the Chapter 13 Trustee for the benefit of the estate. If a deficiency balance results, Creditor may file an amended Proof of Claim to be paid as a general unsecured claim.
4. This Court shall retain jurisdiction over all matters relating to the enforcement of this Order.
5. This Order shall be effective immediately notwithstanding the provisions of F.R.Bankr.P. 4001(a)(3).

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

IN RE:

Case No. 24-43816-TJT
Chapter 13
Hon. THOMAS J. TUCKER

CHARLES PEMBROKE
Debtor(s).

TAMARA A. WHITE (P57276)
Attorney for Creditor
bankruptcy@holzmanlaw.com
28366 Franklin Road
Southfield, MI 48034
248/352-4340

EDWARD J. GUDEMAN (P14454)
Attorney for Debtor
1026 W. Eleven Mile Road
Royal Oak MI 48067
248/546-2800

**NOTICE OF MOTION TO TERMINATE AUTOMATIC STAY
AND WAIVE THE PROVISIONS OF F.R.Bankr.P. 4001(a)(3)**

COMMUNITY CHOICE CREDIT UNION has filed papers with the court to terminate the automatic stay and to further waive the provisions of FRBP 4001(a)(3).

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to terminate the automatic stay, or if you want the court to consider your views on the motion, within 14 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:

United States Bankruptcy Court
211 W. Fort Street
Detroit, MI 48226

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

TAMARA A. WHITE
HOLZMAN LAW, PLLC
bankruptcy@holzmanlaw.com
28366 Franklin Road
Southfield, MI 48034
248/352-4340

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated: June 13, 2024

HOLZMAN LAW, PLLC

By: /S/ TAMARA A. WHITE (P57276)
Attorney for Creditor
bankruptcy@holzmanlaw.com
28366 Franklin Road
Southfield, MI 48034
248/352-4340

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

IN RE:

Case No. 24-43816-TJT
Chapter 13
Hon. THOMAS J. TUCKER

CHARLES PEMBROKE
Debtor(s).

TAMARA A. WHITE (P57276)
Attorney for Creditor
bankruptcy@holzmanlaw.com
28366 Franklin Road
Southfield, MI 48034
248/352-4340

EDWARD J. GUDEMAN (P14454)
Attorney for Debtor
1026 W. Eleven Mile Road
Royal Oak MI 48067
248/546-2800

PROOF OF SERVICE

Diane M. Weaver, hereby certifies that on 06/13/24 she served the following documents:

- **Motion to Terminate Automatic Stay and Waive the Provisions of F.R.Bankr.P. 4001(a)(3)**
- **Proposed Order**
- **Notice of Motion**
- **Proof of Service**

The listed documents were served via ECF Filing upon:

Chapter 13 Standing Trustee, TAMMY L. TERRY and EDWARD J. GUDEMAN, ESQ.

The listed documents were served via First Class Mail upon:

CHARLES PEMBROKE, 18249 KENTUCKY, DETROIT, MI 48221

Dated: 06/13/24

/s/ Diane M. Weaver for
HOLZMAN LAW, PLLC
bankruptcy@holzmanlaw.com
28366 Franklin Road
Southfield, MI 48034
248/352-4340